

IN THE SECOND JUDICIAL
CIRCUIT OF FLORIDA

CHAMBERS OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2002-11

IN RE: FIRST APPEARANCES ON VIOLATIONS OF PROBATION
AND VIOLATIONS OF COMMUNITY CONTROL

WHEREAS, Rule 3.131, Florida Rules of Criminal Procedure, provides that “unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or a violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.” And

WHEREAS, a warrant issued in connection with a violation of probation or violation of community control does not charge a person with a crime or violation of a municipal or county ordinance; and

WHEREAS, when a warrant is issued in connection with an alleged violation of probation or violation of community control the first appearance judge has no authority under Rule 3.313, Florida Rules of Criminal Procedure, to modify a bond or to set a bond in cases where the issuing judge has denied bond; and

WHEREAS, the first appearance judge must limit herself or himself to the appointment of counsel, if required, and to advising the defendant he is being held due to the alleged violation of probation or community control; and

WHEREAS, the only person who may modify a bond or set a bond relating to alleged violation of probation or violation of community control when the issuing judge has denied bond is the judge

- A. who imposed the conditions of bail or set the amount of bond;
- B. who is the Chief Judge of the circuit in which the defendant is is to appear for a hearing; or




- C. who has been assigned to preside over the hearing of the alleged violation of probation or violation of community control.

Accordingly, it is

ORDERED that when a warrant is issued in connection with an alleged violation of probation or violation of community control, the first appearance judge shall not modify a bond or set a bond in cases wherein the issuing judge has denied bond unless the first appearance judge is the one who initially set the bond, is the Chief Judge of the circuit in which the defendant is to appear for a hearing, or is the judge assigned to preside over the hearing on the alleged violation of probation or violation of community control.

14th DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this day of August, 2002.


WILLIAM L. GARY
Chief Judge

